ATTACHMENT A

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter Of	)	
Special Access Rates for Price Cap Local Exchange Carriers	)	WC Docket No. 05-25
AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services	)	RM-10593

SECOND DECLARATION OF
SIMON J. WILKIE

I. Introduction.

1. My name is Simon J. Wilkie. I currently hold the position of Senior Research Associate in Economics at the California Institute of Technology. I am also an Affiliate of the ERS Group, an economics and financial consulting firm. Prior to joining the faculty at CalTech, I was a member of Technical Staff at Bell Communications Research. From 2002 through 2003, I served as Chief Economist at the Federal Communications Commission ("FCC" or "Commission"). In that capacity, I oversaw the economic analysis performed by the Commission staff and advised the Chairman and Commissioners on economic issues. I specialize in analyses involving industrial organization, regulation, public finance, and the design of institutions, with particular applications to the economics of telecommunications and network industries. I have conducted economic research and prepared testimony on a variety of antitrust and regulatory issues in a number of industries, including the telecommunications industry. I have also consulted on matters involving mergers and acquisitions in the satellite and cable industries, and on issues related to local service and wireless competition. My research has appeared in a number of academic journals, including the *Review of Economic Studies, Journal of Economics and Management Strategy,* and the *Journal of Industrial Economics*. I received a Bachelor of Commerce degree in Economics from the University of South Wales, Australia, and an M.A. and Ph.D. in Economics from the University of Rochester.

2. I have been retained by T-Mobile USA, Inc. ("T-Mobile"), a Commercial Mobile Radio Service ("CMRS") provider, to evaluate certain economic issues that have arisen in this docket.[1] The Commission's Notice in this proceeding requests comment on a variety of issues

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[1] *Special Access Rates for Price Cap Local Exchange Carriers,* Notice of Proposed Rulemaking, 20 FCC Rcd 1994 (2005) ("Notice").

regarding the FCC's pricing flexibility and price cap rules for special access services. In particular, the Notice requests comment on issues that the FCC addressed in its 1999 *Pricing Flexibility Order,* which, among other things, instituted the use of "triggers" – based on the number of competitive local exchange carriers ("CLECs") located in a particular Metropolitan Statistical Area ("MSA") – to deregulate special access pricing in that MSA either partially or fully.[2] Previously, I provided a Declaration that was filed with T-Mobile's initial comments in this proceeding,[3] and I am providing this Second Declaration in connection with T-Mobile's reply comments being filed today.

3. My overarching reaction from examining the record in this proceeding is how limited in scope the special access competition is that has developed in the nearly twenty years since Teleport and MFS began competing in the special access marketplace. In short, I find that what little special access competition exists in the United States, although the price effects can be significant, is extremely limited in scope and geographical coverage. For example, if competition is measured by the percentage of locations (*i.e.*, commercial buildings) that special access competitors serve or are willing to serve – rather than by revenue as some of the incumbent local exchange carriers ("ILECs") do – then no more than about 10 percent of commercial buildings nationwide potentially could have any real competitive alternatives. This observation is consistent with information that I have obtained from TeleGeography and GeoResults, both third-party vendors of telecommunications network data. If the special access

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[2] *Access Charge Reform*, Fifth Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 14221 (1999) ("*Pricing Flexibility Order*").

[3] Declaration of Simon J. Wilkie, Attachment B to Comments of T-Mobile USA, Inc., WC Docket No. 05-25 (filed June 13, 2005) ("T-Mobile Comments") ("Initial Declaration").

marketplace were truly competitive, one would expect list prices (or "rack rates") to be declining, but the record in this proceeding clearly demonstrates price increases. This alone is convincing evidence that the ILECs have significant market power. Thus, in formal economic terms, in every geographic market, the scope of special access competition is not sufficiently significant to constrain the ILECs from charging supra-competitive prices.

4. Throughout this Second Declaration, I discuss the economic aspects of several issues raised in the record in this proceeding, including the appropriateness of using of ARMIS data and the ILEC analyses of competition in the special access marketplace. I also provide further analysis of special access pricing.

5. To summarize briefly, I conclude that ARMIS data are properly used to assess the state of competition in the special access market and that trends in the ARMIS data do accurately reflect ILEC market power. I also conclude that, except for a limited number of areas and specific types of offerings, special access markets are not competitive, and ILEC attempts to demonstrate competition are flawed. In particular, the data reflect significantly elevated special access prices that would not be expected to occur in a competitive market. All of these factors provide further evidence of the lack of competition for special access services, and indicate that FCC action is needed to counterbalance the ILECs' continued market power over special access services.

II. ARMIS Data Is Properly Used to Assess Competition.

6. In their initial comments in this proceeding, the ILECs argue vigorously that ARMIS accounting data are not a reliable source of information for assessing rate levels. The ILECs provide very little actual evidence of the alleged problems with this data, however, and the arguments they do provide are flawed in several respects.

7. First, it is important to note that the ARMIS data are self-reported by the ILECs, which implies therefore that cost misallocations present in the data, if any, are attributable to the ILECs' own reporting actions. Accordingly, the ILECs should not be permitted to claim that they are complying with the FCC's reporting requirements, while at the same time asserting here that their self-reported data are incorrect or useless. Furthermore, as other parties in this proceeding have noted, the ILECs regularly rely on ARMIS data in related contexts.[4] Although some of the ILECs have argued that ARMIS data overstate actual returns by including all DSL revenues but not all DSL costs, other evidence introduced earlier in this docket demonstrates that any such mismatch – to the extent it exists at all – would have only a negligible impact on the ILECs' special access rates of return.[5]

8. Second, even assuming for the sake of argument that there were some minor flaws in the ARMIS accounting data, it is nevertheless clear that there have been steady and significant increases in special access rates of return since the implementation of pricing flexibility. These significant increases in the rates of return – occurring over a period of time during which the cost accounting rules have remained constant – are indicative of market power regardless of any minor flaws in the structure of the data collection.

9. Moreover, it is important to note that, if anything, the ARMIS data underestimate the ILECs' market power. When economists calculate rates of return or a "Lerner Index" mark-up factor to measure market power, they calculate the margin of difference between prices and

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[4] Ad Hoc Telecommunications Users Committee Comments at 29-30.

[5] *See* Reply Comments of AT&T, RM No. 10593 at 37 (filed Jan. 23, 2003) (citing Selwyn Declaration ¶ 67).

marginal costs.[6] The argument presented by the ILECs regarding the use of ARMIS data is essentially over the amount of *joint fixed costs* that should be allocated to special access. The FCC has chosen an allocation factor that reflects the historical revenue shares, which is reasonable for accounting purposes. Nonetheless, whatever the allocation factor, the rates of return and mark-up factor computed using the ARMIS data, because they include fixed costs, will by definition underestimate the measure of market power.

10. Therefore, the ARMIS data, which provide clear indicia of overall costs and rates of return, are properly considered in assessing the level of competition (or lack thereof) in the special access market. In this case, the steadily increasing rates of return reflected in the ARMIS data provide a clear indication of market power that the FCC should remedy.

III. ILEC Analyses of the Special Access Market.

11. In their initial comments in this proceeding, the ILECs provide various analyses and arguments that attempt to demonstrate that the special access market is competitive. These analyses are fundamentally flawed in numerous respects.

12. First, in their special access market share calculations,[7] the ILECs erroneously characterize unbundled network element ("UNE") providers as competitors to special access providers and broadly compare UNEs with special access services.[8] As an initial matter, the UNE rules changed materially in February of 2005, with the result that many UNEs are being eliminated. Thus, even assuming that there were significant UNE-based competition, that

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6 *See, e.g.*, Jean Tirole, THE THEORY OF INDUSTRIAL ORGANIZATION (MIT Press, 1988).

7 *See* BellSouth Comments at 23-37; SBC Comments at 23-24.

8 *See, e.g., Unbundled Access to Network Elements*, Order on Remand, 20 FCC Rcd 2533, 2565-66 (2005) ("*TRRO*") (noting the difficulties of comparing UNE and special access products).

element of competition is, at a minimum, declining precipitously. Of course, even where there is an alternative UNE-based provider and the customer can as a practical matter utilize that provider, the UNE-based provider ultimately must rely upon the ILEC for circuit provisioning and performance.

13. Second, the various ILEC studies asserting price decreases for special access described in the initial comments in this proceeding do not appear to reflect the actual experience of their customers.[9] As set forth in T-Mobile's initial comments, T-Mobile has experienced price increases over the past three years for special access from Qwest Communications, Southwestern Bell and Pacific Bell of 62 percent, 27 percent and 15 percent, respectively.[10] Similarly, Time Warner Telecom has documented a price increase of 19 percent from Qwest Communications in 2004 alone.[11] Thus, the consumers of special access are reporting that the prices they pay have risen, in stark contrast to the experience of consumers of most other telecommunications services, for which prices have fallen dramatically. Regardless of any price increases or decreases, however, it is also clear that current prices far exceed the rates that would exist in a competitive market.[12]

14. Further, as a matter of economic theory and basic statistics, the ILEC calculations that attempt to refute the straightforward price increases in the tariffs are based on "weighted

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9 BellSouth Comments at 14-22; SBC Comments at 21-24; Verizon Comments at 5-7, 21-22; Iowa/Valor Comments at 10-11. *See also* Declaration of Dr. William Fitzsimmons on behalf of Qwest Communications International, Inc., attached to Comments of Qwest Communications International, Inc., *Special Access Rates for Price Cap Local Exchange Carriers*, WC Dkt. No. 05-25 (June 13, 2005).

10 T-Mobile Comments at 10 (citing Declaration of Chris Sykes ¶ 9, attached thereto).

11 Time Warner Telecom Comments at 18.

12 *See* Initial Declaration ¶¶ 18-21.

averages" rather than real transactions, and thus are misleading. The ILEC calculation methodology provides an example of an error identified in introductory statistics as "Simpson's Paradox" and known to economists as the problem of "the un-representative representative consumer." This paradox establishes that examples can be readily identified in any data set in which price changes make *every single customer worse off*, but make a hypothetical "average consumer" appear to be better off. Similarly, one can find market examples in which the price of every single service in an index has risen, but for which the data is averaged in a way to suggest that prices, on average, have fallen.[13] This is exactly what has happened here – although every price has risen under Phase 2 pricing flexibility, the ILEC analyses rely on arbitrary averages rather than real consumer experiences in order to claim that average prices have fallen.[14] Accordingly, the FCC should not rely upon the ILEC price data based upon weighted averages.

15. Third, the ILEC arguments regarding the availability of discounts are misleading.[15] Discounts, even seemingly substantial discounts, are available under certain terms and conditions (including some reasonable volume and term discounts, but also including unreasonable conditions such as the imposition of exclusivity requirements). Indeed, a review of ILEC special access tariffs indicates that when reasonable term and volume discounts are

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[13] *See, e.g.,* A. Mas Colell, M. Whinston and J. Green, MICROECONOMIC THEORY at Chapter 4D (Oxford University Press, 1995); and D. Huff, HOW TO LIE WITH STATISTICS at Chapter 2 (W.W. Norton & Co., 1954). For numerous examples of Simpson's paradox in sports and public policy, visit http://www.google.com/search?hl=en&lr=&client=safari&rls=en&q=simpson%27s+paradox+and+the+fda&btnG=Search.

[14] *See*, in particular, the exhaustive study by FCC staff economists, Noel Uri and Paul Zimmerman, *Market Power and the Deregulation of Special Access Services by the Federal Communications Commission,* INFORMATION AND COMMUNICATIONS TECHNOLOGY LAW, Vol. 13 (2004) ("Uri & Zimmerman").

[15] BellSouth Comments at 15-19; Verizon Comments at 22.

aggregated with unreasonable exclusivity commitment discounts in a tariff offering, customers can regularly obtain discounts from the ILECs of approximately 30 to 45 percent off of the "rack rates" for special access service.[16] This does not necessarily mean, however, that the actual price paid by customers is decreasing or that it is a competitive rate. To the contrary, to the extent that the underlying "rack rate" to which the discount applies is supracompetitive, customer prices can still be increasing or be at inefficiently high levels despite the presence of discounts.[17] If the special access market were truly competitive, the "rack rate" itself should be at cost, not increasing over time. Uri and Zimmerman point out that similar term discounts were and are available under the tariffs for markets in which pricing flexibility has not been granted. Accordingly, the "apples to apples" comparison would be to compare the discounted price of a particular length term contract in markets to which price caps apply to the discounted price of the same length term contract in markets where price caps have been removed. This is exactly the

[16] For instance, SBC's tariff for special access in Illinois provides for combined term and volume discounts of up to 52.4 percent for DS3 service. *See* Illinois Bell Telephone Company, Tariff Ill. C.C. No. 21, § 7.4.10 (eff. Dec. 10, 2003) (SBC Illinois DS3 special access optional payment plan discounts). Verizon's tariff for special access in California offers five-year term rates for DS1 and DS3 service that are nearly 30 percent lower than those offered for one-year terms. Similarly, SBC's California tariff provides for five-year term plans for DS1 and DS3 service that are 20 to 30 percent lower than comparable one-year plans. Note that these California figures are term discounts only and do not include any additionally negotiated volume or other discounts. *See* Verizon California, Inc., Schedule Cal. P.U.C. No. K-2, § IV.B.2. (eff. May 20, 2004); Pacific Bell Telephone Company, Schedule Cal. P.U.C. No. 175-T, § 7.5.8(C) (eff. Nov. 14, 2000). In particular, the ILECs have claimed that some carriers get an additional 10 percent discount through policies such as SBC's "MVP" plan. *See, e.g.,* Ex Parte Letter from Gary Phillips, General Attorney & Asstant General Counsel, SBC, to Marlene H. Dortch, Secretary, FCC, WC Dkt. No. 04-313 (filed Nov. 12, 2004).

[17] *See also* Time Warner Telecom Comments at 2, 17-19.

analysis performed by Uri and Zimmerman, and they found that in almost every market, Phase 2 pricing flexibility has led to higher prices.[18]

16. Fourth, the ILEC arguments that the current pricing flexibility triggers actually understate competition are unrealistic.[19] In short, the ILECs argue that the collocation-based pricing flexibility triggers understate competition by failing to capture facilities-based competitors that entirely bypass ILEC facilities.[20] To the contrary, however, the converse problem exists for any proxy-type trigger – *i.e.*, that such a trigger captures collocators that are not actual or potential competitors for special access service. For example, there are carriers that may be collocated in an ILEC central office to serve their own needs, but do not provide (and have no intention of providing) any loop or transport service. Particularly for base station-to-central office links, the existence of multiple collocators simply does not result in special access competition because, as I explained in my Initial Declaration, these links have the economic characteristics of natural monopolies.[21]

17. The larger problem with the triggers is that they overstate competition for important types of special access services. By defining the geographic market for special access as an MSA, the Commission is assuming (in formal economic terms) that all competitors provide substitute goods in the MSA. However, this is clearly not the case, because telecommunications network circuits are complementary products rather than substitutes. T-Mobile's demand for

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[18] Uri & Zimmerman.

[19] BellSouth Comments at 50-55; Verizon Comments at 35-37; Iowa/Valor Comments at 19-20; USTA Comments at 15-16.

[20] *Id.*

[21] Initial Declaration ¶¶ 5-9 (explaining that base station-to-central office links have only one customer, carry low volumes of traffic and involve primarily sunk costs).

DS-1 circuits to its base stations in the suburbs of an MSA, for example, increases when the price of DS-3 interoffice transport in that MSA falls. If the circuits were substitutes, then according to any economic definition, suburban DS-1 demand would fall.

18. It is a fundamental economic principle that substitutes constrain market power while complementary goods enhance market power. The nature of this principle can be illustrated by a simple example. Suppose that a user requires a DS-1 circuit from a central office to a customer location and a second transport circuit back to the carrier's POP to complete the network. Suppose further that the carrier values the combination of circuits to connect the customer to its POP at $500 and that the cost of providing each circuit is $100. It is easy to see that, if there were an unregulated monopoly provider of the circuits, the monopolist would be able to charge up to $500 for the combined circuits. Indeed, just under $500 – say, $499 – would be the predicted price. If, instead, there were competitive providers for each circuit, however, competition would drive the price down to cost, such that the price of each circuit would be $100, for a total price of $200.

19. One can then ask what would happen if the ILEC's price for each circuit were initially regulated at $200, but that competition has developed for the interoffice transport circuit. If the regulated ILEC has no pricing flexibility, then it will not find it profitable to cut prices and compete with the new entrant, with the result that there will be diminished competition for the interoffice transport circuit. If, however, Phase 1 pricing flexibility has been granted, then the ILEC can compete and lower the price where there is competition, but it cannot raise the price for the complementary good. Therefore, in this example, competition will drive the price of the transport circuit down to $100, while the price of the loop would remain at $200, and consumer welfare would increase.

20. Suppose, however, full (or Phase 2) pricing flexibility has been granted based upon the presence of a competitor in the transport market. In this example, competition again will drive the price of the transport circuit down to $100, but would leave the purchaser with a net value of reaching the customer of $500-$100=$400. In this situation, the ILEC with complete pricing flexibility and facing competition only on the complementary circuit will raise the price to $499 - $100 = $399. In this case, then, the benefits of competition are appropriated by the ILEC and do not flow through to customers.

21. Accordingly, the nature of complementary products leads to a dramatic difference in the economic effects of Phase 1 and Phase 2 pricing flexibility. The failure to recognize the complementary nature of telecommunications network circuits and the negative impact of this complementarity on competition has lead to market conditions that are inconsistent with economic efficiency and the goals of Congress and the FCC.

22. Fifth, ILECs overstate the nature and extent of intermodal competition for special access services.[22] The record demonstrates that cable companies, fixed wireless providers and other providers are not viable competitive alternatives for special access service for a variety of reasons. Regarding cable companies, there is limited cable system infrastructure to the commercial buildings that require special access services, and the FCC itself has recognized that cable modem service has certain limitations that make it an imperfect substitute for DS-1 loops.[23] Similarly, with regard to fixed wireless providers, the FCC has also recognized that fixed

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[22] SBC Comments at 11, 16-20; Verizon Comments at 22-31; CenturyTel Comments at 6-8; Iowa/Valor Comments at 17-18.

[23] *TRRO* at 2637-39.

wireless services are not an adequate substitute for high-capacity wireline loops.[24] In particular, the prices of fixed wireless services are so low compared with special access – as low as $500 *per year* per 100 MHz circuit – yet the number of wireless circuits sold are so small that such circuits formally cannot be considered to be "in the same relevant market" as special access.[25] The comments of customers in this proceeding confirm these conclusions.[26]

IV. Special Access Prices Vary Significantly With the Level of Competition.

23. As set forth in my Initial Declaration, I have previously explained that special access prices are well above actual and constructed competitive benchmarks, and that ILECs' rates of return for special access provide further evidence of the supra-competitive nature of special access prices.[27] To further examine the state of competition in significant portions of the special access market, I collected and examined information from TeleGeography, a third-party data vendor, that sets forth the average prices obtained from competitive bids in certain MSAs, *i.e.*, prices resulting from the solicitation of bids from competitive vendors on competitive routes. These data show significant price variations, which should not occur in a uniformly competitive market. Not surprisingly, the price variations correlate to the level of competition in that particular market.

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[24] *TRRO* at 2639 n.508.

[25] *See, e.g.*, Declaration of Simon Wilkie at 3-5, attached to Comments of First Avenue Networks, Inc., *Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands*, ET Dkt. No. 95-183 (Dec. 2, 2004).

[26] *See, e.g.*, Nextel Comments at 10 (fixed wireless and cable circuits are not adequate substitutes for wireless providers that need service to remote and isolated cell sites).

[27] Initial Declaration ¶¶ 10-21.

24. A fundamental principle of economics is "The Law of One Price." This principle states that, if firms are selling the same good in the same relevant market, then there can be only one price at which the good is traded – the lowest price. Otherwise, arbitragers will buy at the lowest price and resell the good, undercutting firms selling at a higher price and capturing the higher-priced firms' sales. Thus, for example, the relevant geographic market for a bottle of Lafitte Rothschild is the world because the product can be transported relatively easily.[28] Accordingly, we find that there is almost no difference in the price of a bottle of the same vintage in London or San Francisco.

25. However, this is not the case for special access. Here, The Law of One Price is soundly refuted, suggesting that special access markets are not in fact competitive. According to the TeleGeography price data, which were collected from competitive carriers for metro transport, the difference between the ILEC special access price for a circuit can vary by as much as a factor of three depending upon whether competition exists in the relevant market. For example, the average price of POP-to-POP OC-3 service in a competitive market is in the range of $1,200 to $2,000 per month, but the cost of an OC-3 circuit (even after application of the discount for a three-year term commitment) from SBC in Dallas is $6,600 per month and from Verizon in the District of Columbia is an astounding $12,540 per month.[29] (See Appendix One.)

26. I understand, moreover, that these price discrepancies are confirmed by T-Mobile's experiences in the wholesale market. In particular, on routes on which there is

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[28] This example is discussed in John Taylor, ECONOMICS (4th ed., 2001).

[29] TeleGeography, *MANS: Metropolitan Area Networks* (2005), at 73, 77. SBC and Verizon prices reflect monthly recurring cost under three-year contract terms and are based on a point-to-point circuit consisting of two channel terminations, two ports, and five miles of interoffice transport. *See* Appendix One.

competition, DS-3 interoffice transport can be obtained "on-net" from a facilities-based CLEC for prices that are a fraction of the ILEC special access rate. However, on routes where there is no competition, *in the very same MSA* T-Mobile is left with no alternative but to pay the ILEC special access rates, which can be many times higher. Thus, The Law of One Price fails because special access prices are a multiple of competitive prices in the same MSA. Therefore, we must conclude that the circuits are not all substitutes. Rather, as explained above, the complementary nature of special access circuits means that the MSA is an inappropriate market definition. Given these price discrepancies, it is unsupportable to claim that the MSA is an appropriate geographic market definition for determining the absence of market power. Together, these factors suggest that Phase 2 pricing flexibility is a fundamentally flawed policy.

V. Possible Remedial Action.

27. As demonstrated above and in my Initial Declaration, (1) existing special access prices are supracompetitive, and (2) the MSA is an overbroad market for application of the FCC's pricing flexibility rules.[30] In order to address the resulting harms to competition and increases in consumer prices, the FCC must act to counterbalance the ILECs' market power. One possible remedy is for the FCC to recalibrate rates by applying the commonly available 30 to 45 percent discount (described above) to existing rates. This resulting price should be the tariffed, generally available "rack rate" for special access services, and this rate should apply subject only to reasonable terms and conditions that are standard business practice and found in competitive carrier offerings (such as a one-year term commitment with a portability option). The ILECs should not be allowed to use their market power to impose exclusivity commitments

[30] Initial Declaration ¶¶ 22-24.

on special access customers.[31] Carriers should then be free to negotiate any further flexible individual arrangements or discounts. This approach would capture the welfare benefits of competition in the current, noncompetitive special access marketplace. Because the ILECs regularly provide such services at this price currently, this rate level can be presumed to cover ILEC costs as well as provide a profit. This approach would also ensure that special access customers have access to efficient, market-calibrated prices without being forced to accept unduly onerous, anti-competitive conditions. In short, the goals of the *Pricing Flexibility Order* were noble, but its implementation was fatally flawed due to erroneous market definitions. Because the market definitions and triggers do not correspond to economic theory or market realities, the Phase 1 triggers may well be too restrictive, while (as outlined above) Phase 2 pricing flexibility should be abolished as a failed policy. Thus, in my opinion, a modified Phase 1 pricing flexibility regime – requiring a non-discriminatory tariff offering that reflects reasonable market-based pricing – should be granted nationally.

VI. Conclusion.

28. In conclusion, I find as follows: (a) ARMIS data is properly used to assess the state of competition in the special access market, and trends in the ARMIS data do accurately reflect ILEC market power; (b) except for particular pockets of competition, the special access market is not sufficiently competitive to constrain ILECs from abusing their market power, and

[31] Other commenters identify unreasonable exclusivity provisions imposed by the ILECs. *See*, *e.g.*, AT&T Comments at 6-8 (ILECs unreasonably condition volume discounts on customers' previous purchase levels); ATX/Bridgecom/Broadview Comments at 35-39 (describing region-wide commitment requirements and "access service ratio" imposed by SBC); PAETEC Comments at 8-9 (describing how large termination fees prevent customers from using competitive alternatives); Sprint Comments at 6-7 (describing how the RBOCs have made it administratively and financially impossible to efficiently migrate existing special access facilities to alternative access vendors); WilTel Comments at 13-15, 19-20, 14-25 (describing ILEC near-exclusivity requirements enforced by penalties).

ILEC attempts to demonstrate competition are flawed; and (c) the data I examined reflect significant variations between the ILEC special access prices and the prices of competitive carriers. These variations occur within the same geographic area, which should not occur in a competitive market.

29. This concludes my Second Declaration on behalf of T-Mobile USA, Inc. I declare under penalty of perjury that the foregoing is true and correct to the best of my understanding and belief.

/s/ Simon J. Wilkie

Executed on July 29, 2005.

APPENDIX ONE
SELECTED SPECIAL ACCESS CIRCUIT PRICES

	Monthly Point-to-Point Circuit Prices *(percentage difference from competitive provider rates)*			
	U.S. Competitive Service Providers	SBC (Dallas)	SBC (Chicago)	Verizon (Washington, D.C.)
OC-3	$1,200 - $2,000	$6,600 *(230% - 450%)*	$4,240 *(112% - 253%)*	$12,540 *(527% - 945%)*
OC-12	$2,500 - $4,000	$14,500 *(263% - 480%)*	$9,520 *(138% - 281%)*	$27,160 *(579% - 986%)*
OC-48	$10,000 - $15,000	$31,000 *(107% - 210%)*	$16,620 *(11% - 66%)*	$41,785 *(179% - 318%)*

Source: TeleGeography, *MANS: Metropolitan Area Networks* (2005), at 73-74, 76-78.

Notes: Competitive carrier prices "reflect the range of monthly lease prices quoted by alternate service providers in mid-year 2004" for "on-net" circuits from alternative carriers in major U.S. cities. These circuit prices "apply to both PoP-to-PoP circuits, and to circuits to some end-users' buildings." RBOC prices reflect "monthly recurring cost based on 3-year contract terms in markets with rate relief" under standard tariffed rates. *Ibid.*